

REMARKS

The examiner is thanked for the performance of a thorough search. By this amendment, Claims 1-10 and 19 have been canceled, and Claims 17-18 are amended. Hence, Claims 11-18 and 20-24 are pending in the application. The amendments to the claims as indicated herein do not add any new matter to this application. Amendments made to the claims as indicated herein have been made to exclusively improve readability and clarity of the claims and not for the purpose of overcoming alleged prior art. Each issue raised in the Office Action mailed January 15, 2004 is addressed hereinafter.

I. ISSUES NOT RELATING TO PRIOR ART

The Office Action does not indicate whether the drawings as filed are acceptable. Review of the drawings and an indication of acceptance are respectfully requested.

II. ISSUES RELATING TO PRIOR ART

Claims 1-3 and 10 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Buchmann-Ribary '013. Applicant disagrees with the Office Action, but to focus the case and advance prosecution, Claims 1-3 and 10 are canceled herein. Therefore, the rejection is moot.

Claims 1-4, 9, 11, 12, 14, and 17-19 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Brookhart '635. Applicant disagrees with the Office Action, but to focus the case and advance prosecution, Claims 1-4, 9, and 19 are canceled herein. Therefore, the rejection is moot as to Claims 1-4, 9, and 19.

Each of Claims 11, 12, 14, and 17-18 positively recites a drill bit structure. Brookhart '635 does not show a drill bit. The Office Action contends, at page 3, first paragraph, that the tip of Brookhart '635 "is deemed to be a 'drill' or 'drill bit' fixed in the body. Typically, it is noted that a 'drill' usually is associated with some type of rotating means for the 'drill'." This is incorrect. First, while a drill may have a rotating means, a **drill bit** (as claimed) is an element entirely separate from any rotating means that may achieve the goal of hole cutting. A drill bit

does not require a rotating means to be a drill bit. Second, a drill bit is characterized by spiral cutting flutes on a cylindrical body, not rearwardly-facing barbs. Indeed, applicant's specification distinguishes among a drill bit and a shaft with barbs, and applicant does not term the latter a drill bit. The shaft of Brookhart '635 cannot be said to be a drill bit, or equivalent to a drill bit. Further, the device of Brookhart '635 could not be used as a drill bit in the asserted application of Brookhart, which is cleaning and removing partially cured or hardened caulk from a caulk tube. Such caulk is typically extremely resilient, stretchy, and tough, and a drill bit would be inadequate to remove such material from a tube. Accordingly, Brookhart '635 fails to support a rejection based on anticipation under 35 U.S.C. § 102(b).

The Office Action further contends, at page 3, second paragraph, that "the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations and merely involves intended use." Applicant disagrees, and requests a citation of case law to support this proposition. Such cases are typically extremely fact-specific and often do not support the broader rationales for which they are cited. For all these reasons, the rejection based on Brookhart '635 should be withdrawn.

Claims 1-6, 11-14, and 17-20 have been rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Sauer '888. Applicant disagrees with the Office Action, but to focus the case and advance prosecution, Claims 1-6 and 19 are canceled herein. Therefore, the rejection is moot as to Claims 1-6 and 19. Each of Claims 11-14, 17-18, and 20 positively recites a drill bit structure. Sauer '888 does not show a drill bit. The Office Action contends, at page 3-4, that the tip of Sauer '888 "is deemed to be a 'drill' or 'drill bit' fixed in the body. Typically, it is noted that a 'drill' usually is associated with some type of rotating means for the 'drill'." This is incorrect for the same reasons given above with respect to Brookhart '635. In addition, no drawing of Sauer

'888 shows a drill bit, including FIG. 2 and FIG. 4, which merely show a rod having annular rings having an exterior diameter only slightly larger than the diameter of the rod. This structure cannot achieve the goals of applicant's disclosure, namely, removing clogged material from a watercraft speedometer tube. The rings do not extend far enough to provide an adequate surface to catch and remove debris. The rings do not have edges adequate to catch and remove debris; they are flat and blunt. Sauer '888 wholly fails to anticipate the structure disclosed and claimed by applicant.

The Office Action further contends, at page 4, second paragraph, that "the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations and merely involves intended use." Applicant disagrees, and requests a citation of case law to support this proposition. For all these reasons, the rejection based on Sauer '888 should be withdrawn.

Claims 7, 8, 15, 16, 22, and 23 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Sauer '888 in view of Borst '240. Claim 24 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Sauer '888 in view of Borst '240 as applied to Claim 22, and further in view of Field '593. Claim 21 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Sauer '888 in view of Borst '240 and Field '593.

Claims 7-8 are canceled herein, and therefore the above rejection is moot with respect to Claims 7-8. Regarding Claims 15, 16, 22, and 23, the rejections are respectfully traversed.

For a proper rejection under 35 U.S.C. § 103(a), one or more references must individually or collectively disclose, teach, or suggest the complete claimed combination, including all elements of the claims. In the present case, the base reference relied upon by the Office Action, Sauer '888, fails to disclose, teach or suggest a drill bit as claimed, for the reasons set forth above with respect to Claims 1-6, 11-14, and 17-20. The Borst and Field references fail to show

a drill bit or suggest the use of a drill bit with Sauer. As a result, the combinations of references proposed by the Office Action fail to disclose or suggest the complete combination claimed by applicant. Therefore, the rejections under 35 U.S.C. § 103(a) are unsupported, and should be withdrawn.

### III. CONCLUSIONS & MISCELLANEOUS

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.


A petition for extension of time for two (2) months, and otherwise to the extent necessary to make this reply timely filed, is hereby made. If applicable, a law firm check for the petition for extension of time fee is enclosed herewith. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

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